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JUN 3 0 2003

In re Application of :
Avinger, et al. :
Application No. 09/779,799 : ON PETITION
Filed: February 8, 2001 :
Attorney Docket No.: 34753/79317 :

OFFICE OF PETITIONS

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 27, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTH** from mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(b)." This is not a final agency decision.

The application became abandoned January 22, 2003 for failure to timely submit a proper reply to the final Office action, mailed October 21, 2002. The final Office action set a three (3) month shortened statutory period for reply. No extensions of time for reply in accordance with 37 C.F.R. § 1.136(a) were timely obtained. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The present petition fails to satisfy requirement (1) above. The proposed amendment submitted herewith has been determined by the Examiner not to place the application in condition for allowance. The Examiner has indicated that the proposed amendment will not be entered because it presents additional claims without canceling a corresponding number of finally rejected claims.

Any request for reconsideration must be accompanied by the required reply. The reply may be in the form of a Notice of Appeal, plus required fee, a Request for Continued Examination (RCE), plus required fee and submission, a continuation application, plus required fee, or an amendment which, *prima facie*, places the application in condition for allowance.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the request for extension of time submitted herewith was filed subsequent to the maximum period obtainable for reply, this fee is unnecessary and has been credited to petitioner's deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition

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By facsimile:

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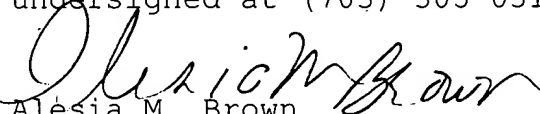
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Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0310.



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